

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SCOTT CHERNOFF,

Plaintiff,

-against-

THE CITY OF NEW YORK; NEW YORK CITY POLICE
PENSION FUND (NYCPPF); MICHAEL D. WELSOME,
Director, New York City Police Pension Fund;
RAYMOND W. KELLY, Police Commissioner; JULIUS
MENDEL, M.D., Medical Board, New York City Police
Pension Fund; RICHARD GASALBERTI, M.D., Medical
Board, New York City Police Pension Fund; ARSEN
PANKOVICH, M.D., Medical Board, New York City
Police Pension Fund; JULIE L. SCHWARTZ, Assistant
Commissioner, Department Advocate's Office;
KATHLEEN M. KEARNS, Managing Attorney,
Department Advocate's Office; LOUIS W. LUCIANI,
Deputy Inspector, Department Advocate's Office; PRINCI,
Lieutenant, Department Advocate's Office; CIASIO,
Sergeant, Department Advocate's Office; JOHN DOE 1,
Police Officer, Department Advocate's Office; JOHN DOE
2, Police Officer, Department Advocate's Office; JOHN
DOE 3, Police Officer, Department Advocate's Office;
JOHN DOE 4, Police Officer, Department Advocate's
Office, each being sued individually and in their official
capacities as employees of the NYPD and/or the NYCPPF

Defendants.

**DECLARATION OF
LAWRENCE J. PROFETA IN
SUPPORT OF DEFENDANTS'
RENEWED MOTION
FOR SUMMARY JUDGMENT**

06 CV 2897 (CPS)(CLP)

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LAWRENCE J. PROFETA declares, pursuant to 28 U.S.C. § 1746, under penalty of
perjury, that the following is true and correct:

1. I am an attorney licensed to practice law in the State of New York. I am a
Senior Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New
York, attorney for defendants herein. As such, I am fully familiar with the facts and

circumstances of this action. I respectfully submit this reply declaration in support of defendants' renewed Motion for Summary Judgment. Submitted herewith are true and correct copies of the following:

2. Exhibit 1 is plaintiff's Amended Complaint dated September 16, 2006.
3. Exhibit 2 is a Stipulation Dismissing Parties and Claims With Prejudice, So-Ordered on November 26, 2007.
4. Exhibit 3 is pages from plaintiff's March 20, 2008 Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment.
5. Exhibit 4 is plaintiff's June 4, 2008 Sur-Reply Memorandum of Law.
6. Exhibit 5 is the Memorandum and Order dated September 10, 2008.
7. Exhibit 6 is a So-Ordered Copy of an October 30, 2008 letter from Lawrence J. Profeta to the Court.
8. During a December 11, 2008 telephone conference with Magistrate Judge Pollak, plaintiff was directed to and agreed to specify exactly what his claims under Section 1983 consisted of; plaintiff complied by letter dated December 11, 2008, which is annexed hereto as Exhibit 7.
9. Exhibit 8 is a December 26, 2002 Memorandum from Arthur Knour, Director NYPD Psychological Evaluation Unit.
10. Exhibit 9 is pages from the medical records of Columbia Presbyterian Hospital regarding Scott Chernoff.

11. Exhibit 10 is a redacted¹ January 22, 2003 Memorandum from the Duty Captain, Patrol Borough Queens South to the First Deputy Commissioner.
12. Exhibit 11 is a redacted March 8, 2003 Memorandum from the Executive Officer, First Precinct to the First Deputy Commissioner.
13. Exhibit 12 is an April 23, 2003 letter and redacted enclosures from the Police Pension Fund to Scott Chernoff.
14. Exhibit 13 is Charges and Specifications dated March 10, 2003.
15. Exhibit 14 is a redacted July 21, 2003 Memorandum from the Duty Captain, Patrol Borough Queens North to the Chief of Internal Affairs Bureau.
16. Exhibit 15 is a September 23, 2003 letter from Benjamin McCommon, M.D. to Mr. Stephen Worth.
17. Exhibit 16 is Charges and Specifications dated December 12, 2003.
18. Exhibit 17 is a redacted February 11, 2004 Memorandum from the Supervising Chief Surgeon to the Police Commissioner, and a February 11, 2004 Memorandum from Catherine M. Lamstein to Director, Psychological Evaluation Unit.
19. Exhibit 18 is a "Notice" signed on 3/12/04.
20. Exhibit 19 is a redacted May 24, 2004 Memorandum from the Medical Board Police Pension Fund Article II to the Board of Trustees Police Pension Fund.
21. Exhibit 20 is a redacted June 4, 2004 Application for Accident Disability Retirement.

¹ To the extent possible, information regarding the identities of third parties and certain confidential information regarding plaintiff (such as social security numbers) have been redacted.

22. Exhibit 21 is an Agreement to Defer Pension Application dated June 14, 2004.

23. Exhibit 22 is a transcript of August 3, 2004 proceedings at the NYPD Deputy Commissioner of Trials.

24. Exhibit 23 is a Negotiated Settlement dated August 3, 2004.

25. Exhibit 24 is two sets of Disposition of Charges.

26. Exhibit 25 is redacted documents regarding plaintiff's January 27, 2005 submission of retirement paperwork.

27. Exhibit 26 is a form dated January 27, 2005 signed by Scott Chernoff to the Executive Director, New York City Police Pension Fund.

28. Exhibit 27 is pages from the October 25, 2007 Deposition of Defendant Kathleen Kearns.

29. Exhibit 28 is an April 8, 2005 letter and enclosure from Jeffrey L. Goldberg to the New York City Police Pension Fund.

30. Exhibit 29 is a redacted April 4, 2005 Memorandum (with related documentation) from the Medical Board Police Pension Fund to Board of Trustees Police Pension Fund.

31. Exhibit 30 is a May 26, 2005 Notice of Petition and Verified Petition in In the Matter of the Application of Scott Chernoff.

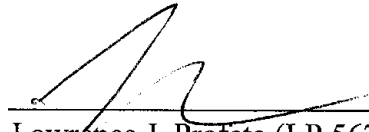
32. Exhibit 31 is a January 26, 2005 Stipulation to Discontinue In the Matter of the Application of Scott Chernoff.

33. Exhibit 32 is a redacted November 14, 2005 Memorandum (and related documentation) from the Medical Board Police Pension Fund to Board of Trustees Police Pension Fund.

34. Exhibit 33 is a redacted May 8, 2006 Memorandum (and related documentation) from the Medical Board Police Pension Fund to Board of Trustees Police Pension Fund.

35. Exhibit 34 is pages from the October 23, 2007 Deposition of Scott Chernoff.

Dated: New York, New York
January 5, 2009



Lawrence J. Profeta (LP 5674)
Assistant Corporation Counsel
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